

U. S. Patent Application No.: 10/800,136
Amendment After Allowance Dated December 29, 2005
Reply to Notice of Allowance of November 14, 2005

Remarks

The present Amendment After Allowance is being filed to make minor amendments to the claims and specification.

The applicants amend the specification so that the specification is more consistent with the claims. While limitations from a specification are not to be imported into the claims, applicants wish to further emphasize by reformatting the application and rewording the application in the manner indicated in the marked up version of the substitute specification, that limitations from the specification are not to be imported into the claims. The Examiner will note that the title of the application has been changed by amendment.

The substitute specification includes an amended priority claim deleting the benefit claims to U.S. Patent Application No. 10/227,889 filed August 26, 2002 and U.S. Patent Application No. 09/651,162 filed August 30, 2000. The amended priority claim recites that the application is a divisional claiming priority to pending U.S. Patent Application No. 09/385,597 filed August 30, 1999 and to several parent applications of U.S. Patent Application No. 09/385,597 through U.S. Patent Application No. 09/385,597 without the intervening priority claims to U.S. Patent Application No. 10/227,889 filed August 26, 2002 and U.S. Patent Application No. 09/651,162 filed August 30, 2000. The Office of Patent Legal Administration has confirmed that a priority claim revision of the type requested is appropriate under MPEP §201.11. The substitute specification also addresses a one digit transposition informality in the referencing of U.S. Patent Application No. 08/914,883. Notwithstanding the one digit transposition, applicants believe that U.S. Patent Application No. 08/914,883 was clearly referenced by the applicants in the specification in view of the context of the disclosure. The Examiner will further note that the patent specification document of U.S. Patent Application No. 08/914,883 has been copied into the specification and is also referenced in the specification with the reference to U.S. Patent Application No. 08/516,185, the file wrapper associated FWC parent of U.S. Patent Application No. 08/914,883. The Examiner is respectfully requested to contact the applicants' representative

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if the designation of the present application as a “divisional” of U.S. Patent Application No. 09/385,597 is deemed inappropriate. See 37 C.F.R. §201.06.

Regarding the claims, claim 6 is amended to remove a phrase of the preamble and to change the word “the” to “a” in the body of claim 6. The change to the body of claim 6 corrects an informality in that there is no prior reference to “plurality of optical reader commands” in claim 6. Claim 7 is amended slightly to recite a parameter table. The amendments of claim 6 and 7 are for presentation purposes and are believed not to affect the scope of either claim. The preamble reference to a parameter table in claim 6 was included to establish an antecedent basis for claim 7. However, on further review, applicants note that the same result can be accomplished by making reference to a parameter table directly into claim 7. Accordingly, the presented amendments better present the claimed invention of claims 6 and 7. It is believed that the removal of text from the preamble of claim 6 does not alter the scope of claim 6 in that the removed text did not form a limitation of claim 6. “[Without reliance on the preamble during prosecution] a preamble generally is not limiting when the claim body describes a structurally complete invention such that deletion of the preamble phrase does not affect the structure or steps of the claimed invention.” *Catalina Marketing International, Inc. v. Coolsavings.com, Inc.* 289 F.3d 801, at 808-809; cited in MPEP §2111.02. Note that the body of claim 6 reciting a method for reprogramming makes no reference whatsoever to a parameter table. Also, no preamble limitations were relied upon during prosecution. See also *Intertool, Ltd. V. Texar Corporation*, 369 F.3d 1289, 1294-1296, also cited in MPEP §2111.02. Regarding claim 17, the word “readers” is changed to “symbols” as is understood to be appropriate in view of the context of the claim.

No amendment to the claims or specification contains new matter. In that it is believed that no claim amendment affects the scope of any claim it is believed that the amendments should not alter the determination that the claims are patentable and also should not require additional searching. The amendments presented herein were not presented earlier since the review leading to the determination that the presented amendments would

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improve the presentation of the application or otherwise would be desirable was not completed until after the close of prosecution.

If the Examiner believes that contact with applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicants' representative at the phone number listed below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

Respectfully submitted,

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